

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

UNITED STATES OF AMERICA, )  
                               ) February 4, 2014  
                               )  
-versus-                   ) Greenville, SC  
                               )  
GORDON L. HALL,          ) 6:13-170-1  
                               )  
Defendant.                )

TRANSCRIPT OF STATUS CONFERENCE

BEFORE THE HONORABLE J. MICHELLE CHILDS  
UNITED STATES DISTRICT JUDGE, presiding

A P P E A R A N C E S:

For the Government:           WILLIAM J. WATKINS, JR., AUSA  
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For the Defendant:           BENJAMIN T. STEPP, ESQ.  
                                   Federal Public Defender  
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Court Reporter:              KAREN E. MARTIN, RMR, CRR  
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The proceedings were taken by mechanical stenography and  
the transcript produced by computer.

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US District Court  
District of South Carolina

Tuesday, February 4, 2014

2                   **THE COURT:** We are back on the record in the  
3 matter of The United States of America vs. Gordon Hall,  
4 6:13-170-JMC.

5                   Mr. Hall, we indicated that I was coming  
6 upstairs to select juries for three criminal defendant  
7 cases. And I've selected all the juries for the interest  
8 of the time of the jurors here. So we have also selected  
9 a jury in your case just so that we would have that out of  
10 the way and not have them held up in that regard. As of  
11 this time I've given you at least a couple of hours, I  
12 would say, to think about whether or not you wish to enter  
13 a plea. And if not, then we will proceed to trial. And  
14 your trial date is for the week of February 24. Do you  
15 have any further discussions with the Court in that  
16 regard?

17 | THE DEFENDANT: I do, Your Honor, and thank you.

18 | THE COURT: Okay.

19                   **THE DEFENDANT:** It appears that I'm being  
20 refused the access to a simple local phone call to maybe  
21 help clear this up and resolve this. I conditionally  
22 accept the offer to pick a jury.

23                   **THE COURT:** Well, we've already selected the  
24 jury for your case just because I had all the jurors here.  
25 And I couldn't have them wait any longer, so we selected a

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1 jury for all three cases.

2           **THE DEFENDANT:** Well, your selection isn't made  
3 moot by the fact that there is a motion before the Court  
4 that resolves the matter in accordance with the promises  
5 made by the prosecution in accordance with minor contract  
6 law, et cetera?

7           **THE COURT:** Okay. And just so we don't go down  
8 this road again, the prosecution, meaning the US  
9 Attorney's Office, apparently offered you a plea  
10 agreement. There was a point at which you countered that,  
11 but they have not accepted that. So there is no plea  
12 agreement available in this case.

13           They indicated this morning that they did not  
14 intend to offer another plea agreement. So to the extent  
15 that you decided to plead, you would have to plead based  
16 on the factual basis that they would offer before the  
17 Court, accept those facts, or if you pled under a no  
18 contest plea.

19           **THE DEFENDANT:** Well, I've put in a no contest  
20 plea based on the promises by them. And if you're telling  
21 me that I don't have the constitutional safeguards and  
22 protections of Article I, Section 10, Clause 1 which  
23 states in pertinent part that no state shall pass any law  
24 impairing the obligation of contracts, then let the record  
25 show that I'll be filing an interlocutory appeal with your

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1 permission to resolve said matter in accordance with law.

2 THE COURT: Okay. If you are deciding not to  
3 appeal, then we will proceed to trial. And any appeal  
4 would come after the trial.

5 THE DEFENDANT: Well, again, I reiterate what I  
6 just said without being verbose. If you're going to deny  
7 my right to constitutional safeguards and protections,  
8 then I feel I'm entitled to an interlocutory appeal on  
9 said -- are you making a final order as to that current  
10 motion that's before this Court?

11 THE COURT: Are you suggesting that you will  
12 plead only if the Government accepts your promises? Is  
13 that what I'm hearing from you?

14 THE DEFENDANT: That I believe we -- if a  
15 promise isn't a manifestation of an intention to act or  
16 refrain from acting in a specified way so made as to have  
17 a promisee expected and relied on said promise, I would  
18 say --

19 THE COURT: What are you specifically referring  
20 to? You're talking in a lot of legalese. What are you  
21 specifically saying that the Government promised you?

22 THE DEFENDANT: Is there not a motion before the  
23 Court with the certified record that indicates -- excuse  
24 me, Judge, if I'm being --

25 THE COURT: But I need you to just state that in

1 plain English right now. What are you specifically saying  
2 that the Government promised you? That would affect your  
3 ability to plead?

4 **THE DEFENDANT:** Well, I've put in a nolo plea in  
5 accordance with the promises made under the said agreement  
6 that's before the Court under the motion that was filed  
7 yesterday that I believe you received and Mr. Watkins  
8 received. Mr. Stepp indicated he received it.

9 **THE COURT:** But under that document, are you  
10 suggesting that you would only plead if the Government  
11 accepts that document as part of your plea?

12 **THE DEFENDANT:** They've already accepted it,  
13 Your Honor, unless you're saying that I should --

14 **THE COURT:** Okay. They have indicated earlier  
15 that they have rejected whatever counteroffers that you  
16 have. And I have already ruled at a previous proceeding  
17 that they have not accepted something by mere failure to  
18 respond because they are ethically and professionally  
19 prohibited from responding to you directly since you're  
20 represented by counsel. And they have indicated that  
21 while those documents are in fact a part of the Court's  
22 filings, that even if they were filed by Mr. Stepp as your  
23 counsel, they still reject it. So we don't have there  
24 being any assent by them in that regard. So let's just  
25 assume that those documents had even been signed and

1 accepted through counsel, Mr. Stepp, to the Court, and  
2 that the Court, even if I had accepted them, those  
3 documents were not agreed upon by the Government. So  
4 there is no agreement in place between you and the  
5 Government at this point in time.

6                   **THE DEFENDANT:** I conditionally accept that on  
7 proof of claim that there's any record in opposition to  
8 said record on that basis. And on the basis that --

9                   **THE COURT:** Well, the Government at the last  
10 hearing made a clear indication orally that they did not  
11 accept the documents or the recitations or verbiage or any  
12 of the wording within your document. So they don't accept  
13 the terms.

14                   **THE DEFENDANT:** What -- excuse me, you're  
15 talking.

16                   **THE COURT:** Yes, that's okay. They don't accept  
17 your terms. So therefore we don't have any agreed upon  
18 terms. So at this point in time there are no agreed upon  
19 terms. So the only plea is for me to inform you of the  
20 charge, inform you of your constitutional rights, have the  
21 Government inform you of the factual basis of the plea,  
22 and you either accept that and plead or you don't and you  
23 go to trial. That's the only option.

24                   **THE DEFENDANT:** Excuse me. Forgive me, Judge.  
25 I should allow you to finish speaking.

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1                   **THE COURT:** Go ahead. Proceed.

2                   **THE DEFENDANT:** I need to listen better. I  
3 conditionally accept that on proof of claim that there's  
4 been any record in opposition to said record and that  
5 modern contract law doesn't apply. Or if you're telling  
6 me that we're going to use traditional contract law, then  
7 I accept proof of claim.

8                   **THE COURT:** I'm not telling you anything in that  
9 regard. I'm telling you that the documents that you have  
10 filed, whether on your own or through your belief that  
11 they are appropriately filed through counsel, those  
12 documents were rejected by the Government's office. So  
13 there is no agreement between the two of you.

14                  At this point in time, the only thing I can do  
15 is inform you of your charges, the elements of the  
16 offense, maximum possible punishment, constitutional  
17 rights, and the factual basis for the plea. You'll either  
18 accept that, acknowledge your understanding of that, and  
19 that's it, or we proceed to trial.

20                  **THE DEFENDANT:** So you're telling me, if I've  
21 got this right, that I don't have constitutional  
22 safeguards of protection of -- under Article I, Section  
23 10, Clause 1. I don't have a right to rely on the  
24 promises by the Government as manifested in their lack or  
25 actually in their proactive stance in that negotiation

1 where they did respond and eventually decided --

2           **THE COURT:** You are perfectly able to go to  
3 trial and challenge whatever you believe are these  
4 manifestations or promises by the Government. As we stand  
5 here today with respect to a plea, the Government has  
6 represented that they've made no such manifestations or  
7 representations to you. But you are perfectly able under  
8 your constitutional right to a jury trial to be able to go  
9 and challenge any of those issues.

10           **THE DEFENDANT:** Do I have any other  
11 constitutional safeguards or protections?

12           **THE COURT:** There will be numerous ones that I  
13 will list for you if I was to do a guilty plea by telling  
14 you you have your right to counsel, you have your right to  
15 require witnesses to come to trial, you have the right to  
16 remain silent, to not have to prove your innocence, that  
17 the Government has to prove your guilt. So there are  
18 several procedural safeguards constitutionally and  
19 otherwise available to you.

20           **THE DEFENDANT:** And reiterating all of the  
21 things that I've previously said without being verbose or  
22 wordy and offending you, Judge, because that's the last  
23 thing I want to do.

24           **THE COURT:** I understand.

25           **THE DEFENDANT:** Oh, my goodness.

1                   **THE COURT:** And you've been very kind. We just  
2 have a difference of opinion on how to proceed.

3                   **THE DEFENDANT:** A simple local phone call would  
4 allow me maybe to get this resolved right away. And I'm  
5 sitting down there for a couple hours --

6                   **THE COURT:** But resolve it how? I don't  
7 understand what you mean.

8                   **THE DEFENDANT:** I have some counsel that I speak  
9 with that can help me resolve this. Because I'm either  
10 misunderstanding something here or I'm entirely  
11 misunderstanding the fact that I have certain  
12 constitutional safeguards and protections.

13                  **THE COURT:** So you're saying you wish to consult  
14 with some other lawyer.

15                  **THE DEFENDANT:** Well, my counsel. Mr. Stepp is  
16 not my counsel. He might be the defendant's appointed  
17 counsel, but he's not my counsel.

18                  **THE COURT:** Well, Mr. Stepp is your counsel.  
19 And I would tell you that the first thing you would have  
20 to do in order for me to accept a guilty plea is to  
21 acknowledge that you are an appropriately charged  
22 defendant in this case. If you can't even acknowledge  
23 that you are an appropriately charged defendant in this  
24 case and you are the Defendant Gordon Hall for purposes of  
25 this action, then I can't proceed with a guilty plea. So

1 your calling counsel will not help you because you have to  
2 be able to acknowledge that first.

3                   **THE DEFENDANT:** I'm absolutely with you on that.  
4 I'm willing to acknowledge under a nolo contendre the  
5 promises made by the Government as manifested in the  
6 certified record that's been submitted with the  
7 Government's permission or in no opposition to it.

8                   **THE COURT:** Okay. But I've told you that the  
9 Government has rejected you. And then I have also ruled  
10 that they didn't have to accept anything that you filed on  
11 your own because you were represented by counsel.

12                   **THE DEFENDANT:** Where is the record --

13                   **THE COURT:** And that even if they had filed --  
14 even -- let's consider that those documents were filed.  
15 They have rejected them. And I have ruled that they have  
16 by not responding that that did not mean that they had  
17 accepted your terms. That's my ruling. So let's just  
18 start there. That is my ruling.

19                   **THE DEFENDANT:** If that's a final ruling, then  
20 we'll get it and put it up on appeal as an interlocutory  
21 appeal and that should halt this. Because based on that,  
22 you're telling me that I don't have a right to rely on  
23 constitutional safeguards or protections as I understand  
24 it.

25                   **THE COURT:** I'm not telling you anything in that

1 regard. I mean, those are your words. That's not what I  
2 said to you. I've made my rulings. It does not appear  
3 that you're willing to accept yourself as a defendant in  
4 the case for me to be able to accept your plea.

5 **THE DEFENDANT:** (Simultaneous speaking) I will  
6 accept under nolo contendre I am the defendant in this  
7 case as it relates to a nolo plea. And I'm willing to  
8 accept that under the nolo -- under Rule 11 and all of its  
9 safeguards and protections that are there.

10 **THE COURT:** Okay. But you also indicate  
11 you'll --

12 **THE DEFENDANT:** I don't have a problem with  
13 that.

14 **THE COURT:** -- you'll only do so if the  
15 Government's alleged promises to you are part of this plea  
16 and there are none. I've ruled that way. They've also  
17 rejected such promises.

18 **THE DEFENDANT:** Let me ask this, Judge. I'm  
19 using a lot of your very valuable time and that's a big  
20 concern of mine. Why am I not allowed a simple local  
21 phone call that might help clear all this up?

22 **THE COURT:** I don't understand what you mean by  
23 clearing anything up. You've got counsel here. I mean,  
24 you're welcome to speak on your own time to whoever this  
25 person is that you'd like to consult with. But for

1 purposes of this proceeding, Mr. Stepp is your counsel and  
2 he is who I would listen to.

3                   **THE DEFENDANT:** Well, I conditionally accept  
4 that on proof of claim that he'll even be in contact with  
5 me, which he has not done or been willing to do on a free  
6 basis, accessing which would indicate to me  
7 ineffectiveness were we to accept such a thing. And the  
8 other is a simple phone call might resolve this and we can  
9 get this so that we don't waste our time with a trial.  
10 Because as I've indicated, Judge --

11                   **THE COURT:** Might resolve what?

12                   **THE DEFENDANT:** This situation and my position  
13 as it relates to this discussion. Because I'm either  
14 missing something or -- and the one -- it's a concept  
15 of -- I realize that there's been advice given by the  
16 Court in the past that wasn't well heeded by me. And I'm  
17 trying to listen to you right now trying to hear this and  
18 not just run -- talk myself with potentially things that  
19 are not of efficacy here that mean nothing. And a simple  
20 phone call to my counsel so that I can get some opinion,  
21 because Mr. Stepp doesn't have any idea of some of this  
22 stuff, and I understand that he doesn't. And I'm, from my  
23 viewpoint, I'm being denied constitutional safeguards and  
24 protections. You're indicating that perhaps that may not  
25 be the case. If that be the case, then you're saying

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1 something and I'm missing it. And a simple local phone  
2 call can maybe get this cleared up. Or in the  
3 alternative, I request that this be continued and allow me  
4 the opportunity to get this settled with the prosecution.

5 **THE COURT:** Okay. Mr. Hall, we've been dealing  
6 with this probably at least three months or so. If you  
7 are at a guilty plea, what happens is the Court informs  
8 you of the charge against you.

9 **THE DEFENDANT:** Right.

10 **THE COURT:** We inform you of the elements of  
11 that particular charge that the Government has to prove  
12 against you beyond a reasonable doubt. We also inform you  
13 of various constitutional rights, including your right to  
14 go to trial, right to remain silent, right to have  
15 witnesses come to the court before you, make you  
16 understand that the factual basis or what the  
17 investigation has revealed with respect to why you've  
18 actually been indicted and charged. And then you have to  
19 accept responsibility in the form of pleading guilty  
20 because you agree that you are charged appropriately, that  
21 you have actually committed the offense for which you are  
22 brought before this Court. That's what a guilty plea is.

23 It is not saying I conditionally accept or any  
24 of those types of terms. You have to actually factually  
25 and legally accept what the charge of the indictment is

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1 and the factual basis of that is as well as an  
2 understanding of your constitutional rights, an  
3 understanding of the elements of the offense because you  
4 agree that you did actually commit the offense. That's  
5 the only way the Court accepts a guilty plea, that you  
6 agree that you accept the offense.

7 Or if I were to accept a nolo contendre plea, it  
8 means that the Government still gives me that factual  
9 basis. However, you cannot contest it. That means you  
10 have no opinion of those facts. But yet I have to rely on  
11 them because nolo contendre means no contest, I do not  
12 contest those facts.

13 And from that point forward I accept those  
14 facts. And then when we enter sentencing, while you and  
15 your counsel will have the opportunity to convince me of  
16 an appropriate sentence, I will still be basing my  
17 sentence with an understanding of what those facts are  
18 that have been put forward to the Court by the Government.

19 So there are no challenges under a factual basis  
20 under a regular plea, maybe a couple of issues that you  
21 might have a disagreement on maybe a date or a time about  
22 something. But the substantive offense for which you're  
23 charged, you won't have a disagreement about because you  
24 will agree that those are the facts for which you're in  
25 front of the Court; or under no contest, you don't contest

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1 the facts.

2 That's the only way I can accept your plea.

3 Because it has to be entered into freely, voluntarily,  
4 knowingly, and intelligently with no disagreement about  
5 these main issues.

6 **THE DEFENDANT:** Under the nolo plea, Judge, I'm  
7 in concert with you.

8 **THE COURT:** Okay.

9 **THE DEFENDANT:** I am in concert with you that I  
10 have to accept all of that and I'm more than willing to.

11 **THE COURT:** Okay. And then in accepting it, the  
12 Government has indicated it has made no promises to you.  
13 They have orally rejected it. They have also I believe in  
14 writing rejected it.

15 Upon us being before this Court a few weeks, a  
16 couple of months ago, I allowed the opportunity for all of  
17 those filings that you placed on to the record for me to  
18 review those. And I agreed also that their mere failure  
19 to respond to you did not indicate that they had accepted  
20 your terms. So that ruling has already been made and  
21 that's what you have to accept at this point.

22 You have every right to appeal, even if you  
23 entered a plea, the guilty plea. And you have every right  
24 to appeal the sentence if you believe I've been in error.  
25 But for purposes of accepting -- me even accepting your

1       plea, again, it has to be knowingly, voluntarily, and  
2 intelligently entered. And it does not include a plea  
3 that has in anyway some type of agreement by the  
4 Government that is not in writing, particularly in this  
5 case, of some terms which you believe they've accepted  
6 that they've indicated they have not accepted and I have  
7 ruled that they have not accepted.

8                   **THE DEFENDANT:** Your Honor, I think we're very  
9 close to a deal here of wrapping this up and not taking  
10 this valuable Court's time and these fine people's time,  
11 which I'm -- you know how I feel about trial. I intend  
12 absolutely not to go to trial because I consider that an  
13 obstruction of justice. And people are punished  
14 additionally for such a thing. And I don't disagree with  
15 such a thing. So I do not intend at all to be going to  
16 trial.

17                  I've put in a nolo contendre plea. Either I'm  
18 misunderstanding something you said, but I'm requesting a  
19 day or two of continuance, because if you've already  
20 selected a jury, it's irrelevant at this point. A day or  
21 two of allowing me some phone calls, which isn't going to  
22 hurt. It's not meant for delay. It's not meant for  
23 harassment. And it's certainly not meant to cause  
24 Mr. Watkins additional work or Mr. Stepp or yourself.

25                  **THE COURT:** Okay. Let me ask you this. Even if

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1 I were to, say, give you until Friday at 12 to say whether  
2 or not you could actually enter a plea, whether it be an  
3 actual plea or a no contest plea, how am I to know that  
4 you are able to accept how the Court conducts its business  
5 with respect to the plea, which is what I've been  
6 outlining in the conversations and discussions we've been  
7 having here, that it does not include you wanting to  
8 continually go into this refrain about the Government  
9 accepting certain promises?

10           **THE DEFENDANT:** You're saying I can't rely on  
11 what I perceive to be the promises made by the Government  
12 is what you're saying?

13           **THE COURT:** Exactly. Because I've already ruled  
14 that there were no such promises by their mere failure to  
15 respond to documents that you filed in your own capacity.

16           **THE DEFENDANT:** I don't disagree in that  
17 context. However, the fact that they've had an  
18 opportunity to put opposition as to the motion and the  
19 rest of that, allow me the latitude until Friday then and  
20 let's see if we can't get this resolved. Nobody's going  
21 to be prejudiced here. And under nolo, I'm accepting all  
22 of those things.

23           **THE COURT:** Okay. But what is it that you would  
24 be relaying to Mr. Stepp for him to clearly understand and  
25 be able to articulate to this Court, as well as to

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1 Mr. Watkins, that we believe you are finally there in  
2 terms of accepting your responsibility, admitting to  
3 guilt, entering into a plea that does not have us going in  
4 this regard? Because when I do a plea, I have certain  
5 questions, certain statements that I'll make to you. And  
6 we don't go back and forth on these conversations, because  
7 the person accepts their responsibility. They accept  
8 their guilt. None of these issues are at issue in a plea.  
9 To the extent that there is further information you'd like  
10 me to know about you personally, we can take that up at  
11 sentencing. But for purposes of the plea then I will need  
12 you to accept the facts that Mr. Watkins has time and  
13 again informed the Court of with respect to your  
14 individual involvement in the offense for which you are  
15 charged.

16                   **THE DEFENDANT:** I absolutely accept  
17 responsibility for this.

18                   **THE COURT:** Okay. But how is --

19                   **THE DEFENDANT:** The question isn't going to  
20 be -- is it going to be -- am I misguided under my nolo  
21 plea or do I have to switch it up to a straight guilty  
22 plea and accept? And that's a distinct possibility.  
23 Allowing me a little latitude here, Judge, I won't waste  
24 your time, I won't waste this Court's time. And forgive  
25 me that I've continued to cause you duress or wasting this

1 Court's time. I've --

2 THE COURT: I do understand that at any time  
3 you're before the Court it's a difficult decision just  
4 coming to terms, so to speak, with what has transpired  
5 with respect to actually being arrested, being charged.  
6 And that's a difficult thing for persons to do. I  
7 understand that. And so that's why I've been patient  
8 along the way. And I'm just naturally patient in terms of  
9 anybody who is before the Court.

10 But there's just got to be a point at which  
11 there's a cut off. These lawyers have a trial date of  
12 February 24. And they've got to get prepared, your side  
13 as well as the Government as well as the Court.

14 THE DEFENDANT: Well, as you're aware of my  
15 position, however, I'm absolutely responsible for these  
16 charges and I don't equivocate on that. We have a small  
17 little situation here, Judge, regarding the promises I'm  
18 operating under. But in no way am I less than  
19 responsible. Absolutely. Regardless of --

20 THE COURT: Okay. And you understand that those  
21 promises are not at issue in this case because I've  
22 already ruled that they do not factor into your plea?

23 THE DEFENDANT: Well, that's your position. And  
24 I've heard you say that.

25 THE COURT: Sure.

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1                   **THE DEFENDANT:** However, I conditionally accept  
2 that you can -- that you have the authority to trespass on  
3 what I perceive to be a valid contract. And you may be  
4 right, Judge. So I'm asking you for a little latitude  
5 that I might seek some counsel because I'm -- I perhaps --  
6 you know, usually I used to feel that the Government  
7 sometimes says things that aren't always accurate. And I  
8 don't sense that. This whole group here is nothing but  
9 honorable. And I really think the Government -- you know,  
10 my love for Government and appreciation is great. I'm  
11 operating under maybe some misguided -- maybe some  
12 misguided principle here and I don't wish to waste your  
13 valuable time.

14                   **THE COURT:** Okay. But again, going back to my  
15 other question. How do you relay to Mr. Stepp that you  
16 are willing to enter this plea -- essentially as long as  
17 you understand my questions, and you can make your  
18 responses, and I'm okay at the end of the day with how you  
19 responded, that you are informed, that you entered it  
20 voluntarily, intelligently, and freely, how do you relay  
21 that to him so that we know that if I come back to court  
22 we're not going back through this discussion? Because  
23 we're done. I mean, this is it. If I allow this until  
24 Friday and you tell him that you are willing to plead,  
25 then you must plead. If not, we're going to trial and

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1 there will be no further discussions except pretrial  
2 issues with respect to evidence and then taking on the  
3 trial.

4           **THE DEFENDANT:** Without boring you,  
5 conditionally accepting upon proof of claim that I don't  
6 have an idea of what to do. But, Your Honor, we can get  
7 to this if you'll allow me, I'll contact Mr. Stepp via  
8 email. All he's got to do is come over and talk to me.

9           **THE COURT:** Okay. And just for the record,  
10 Mr. Stepp, you have been over there to see Mr. Hall?

11           **MR. STEPP:** Several times, Judge. But I would  
12 say that this case, this situation has been more of a  
13 procedural issue than the facts of the case.

14           **THE COURT:** Okay.

15           **MR. STEPP:** And listening to him talk today,  
16 looking back over these filings, this -- there seems to be  
17 the -- I guess the elephant in the room is the phrase plea  
18 agreement by mutual assent. And if that is a -- I found  
19 nothing that I can say to the Court is a -- makes that a  
20 legally binding or a legally viable term in criminal  
21 court. And if that is something that the Court I believe  
22 has already ruled on, that that -- the Court does not  
23 agree that that exists, either in this case or any other  
24 case, and it seems to me that's the biggest part of the  
25 problem. Because at some point in a plea colloquy,

1       whether it's a nolo plea or a straight up guilty plea,  
2       there's discussion about whether anyone's promised you  
3       something to get you to plead guilty. And this plea  
4       agreement by mutual assent that Mr. Hall contends he has,  
5       as I understand the Court's ruling, you're ruling is he  
6       doesn't.

7                   **THE COURT:** That's correct.

8                   **MR. STEPP:** And I think that's a big deal that I  
9       think could be a stumbling block on moving forward in the  
10      case.

11                  **THE COURT:** Okay. And the other thing is you  
12      keep saying I conditionally accept something. You have to  
13      accept it. There's no conditional acceptance.

14                  **THE DEFENDANT:** In regards to --

15                  **THE COURT:** So when we get into a plea colloquy,  
16      I cannot hear the words conditional acceptance or I will  
17      reject the plea. The Court has the opportunity to accept  
18      it or reject it. If I believe in any way that you are  
19      equivocating, you do not understand, are not freely,  
20      voluntarily, and intelligently entering into the plea,  
21      which means I understand it, I accept it, not  
22      conditionally or otherwise, but I agree or I do not  
23      contest, those are the only phrases of words that I can  
24      allow for the plea to go forward. So if that is not in  
25      your heart and your mind to do, then I will let you know

1 right now I will reject the plea.

2           **THE DEFENDANT:** I think you and I are in  
3 concert, Judge. I understand that it's my duty and  
4 responsibility to accept these charges, which I do. The  
5 question is is this small thing. And while we're talking  
6 about this, I know that you've ruled. But, of course,  
7 under the rules of evidence, it wasn't -- it had no legal  
8 basis to begin with. Now there is a legal basis where  
9 there wasn't. So, you know, allow me a little latitude  
10 here. Let me formulate something. It shouldn't take  
11 long. And Mr. Stepp can be responsive to the emails or he  
12 can give me a call over there or he can come by. It's not  
13 difficult. If we think that I need him in the middle of  
14 this, then we'll go from there. Just allow a little  
15 latitude here, Judge. Your schedule hasn't changed any.  
16 It won't prejudice anybody.

17           **THE COURT:** Okay. Let me think about this.

18           Mr. Stepp and Mr. Watkins, I need you two  
19 gentlemen, before I would potentially even accept the  
20 plea, I'm trying to get to a point of us not being back  
21 here, where all I do is reconvene and then we keep going  
22 through this song and dance. If there is some very  
23 general yet very understandable language, even in just the  
24 form of a paragraph that the two of you could come up with  
25 that requires Mr. Gordon Hall to sign off on that lets me

1 know his intention to plead that kind of culminates the  
2 discussions we've been having here, that he agrees that  
3 the Government has not assented to the terms for which he  
4 wishes to plead, just something general, then that would  
5 be what he'd have to sign. And then you would file it  
6 with this Court before I would go forward with any other  
7 proceeding that relates to him having a plea. Because I  
8 just don't -- I need it to be in such terms so that it's  
9 very clear and basic, you know, just in a couple of  
10 paragraphs with some bullet points or whatever, that you  
11 all understand what we're trying to accomplish. And he  
12 would have to sign off on that. And then that would --  
13 you can show me the document ahead of time. But that  
14 would be the document that he would have to sign off on  
15 before I would even convene another proceeding.

16 Otherwise, I think we are going straight to jury trial.

17           **THE DEFENDANT:** I think I can assist in that,  
18 Judge, and I think we can get that done with Mr. Watkins.

19           **THE COURT:** Well, I'm going to ask these  
20 gentlemen to draft the document because they understand  
21 what needs to happen.

22           **THE DEFENDANT:** So long as my substantive rights  
23 aren't violated, we're going to get this resolved. Allow  
24 a little latitude. There's no prejudice. No intent to  
25 harass or delay, Your Honor. Forgive me for taking your

1 time today.

2 THE COURT: Okay.

3 But gentlemen, just so you understand the type  
4 of document, you understand what a plea colloquy is about  
5 each time. And I think it's certain of those questions  
6 that are in that plea colloquy that might be helpful in  
7 terms of the statements that might need to be in the  
8 document.

9 MR. WATKINS: And, Your Honor --

10 THE COURT: Just enough for me to understand,  
11 essentially, whether he intends to plead or not, you know  
12 what I'm saying? I'm trying to do that in a way that  
13 doesn't put all the pressure on Mr. Stepp to have to  
14 interpret the discussions, the emotions as to whether or  
15 not we really are here. Because when I come back, then  
16 we're going to a plea and I'm going through my colloquy  
17 and we're done. I will not entertain anymore discussions  
18 on these types of issues because that shows me we are not  
19 at a plea. Do you understand what I'm saying? Meaning  
20 Mr. Stepp and Mr. Watkins?

21 MR. STEPP: I think I do. And before we leave,  
22 I'd like to try to clarify this last issue of the email --

23 THE COURT: Okay.

24 MR. STEPP: -- that Mr. Hall sent to the  
25 prosecutor yesterday. And I think what he's referred to

1 about the -- some documents or some evidence or some  
2 information that may not have been before the Court at an  
3 earlier date which would indicate or support his position  
4 that the -- that there is a plea agreement by mutual  
5 assent, in other words, the things the Government either  
6 did do or didn't do constitute under his theory of  
7 contract law that they have bound themselves to a plea  
8 agreement which was filed with the Court back in December.  
9 We went through this --

10 THE COURT: Right.

11 MR. STEPP: -- about that. I think that was the  
12 choking point over the last time we were going down this  
13 path of a nolo plea. And so if -- which I think perhaps,  
14 and I'm not putting words in his mouth, but I think  
15 perhaps that he believes that certain things were not  
16 properly procedurally before the Court. And that if they  
17 had been, it might have altered the Court's opinion about  
18 whether or not this plea agreement by mutual assent  
19 exists, number one. That's immaterial about whether the  
20 Court is required to accept it even if it was out there --

21 THE COURT: Okay.

22 MR. STEPP: -- which I think falls under your  
23 discretion under Rule 11. But nevertheless, if -- I would  
24 just ask the Court to consider that all of this, things in  
25 these last filings be considered in, I guess for lack of a

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1 better phrase, a motion to revisit or reconsider your  
2 earlier ruling back in the filing I got January the 23rd  
3 where the Court denied the motion. That's Document  
4 No. ECF-210.

5 I think a lot of this is this procedural aspect  
6 about whether there's any enforceable agreement between  
7 the Government and Mr. Hall that somehow the Court is  
8 obligated to accept it. And I'm willing to talk. If he's  
9 got somebody he wants to talk to and he wants that person  
10 to talk to me or me to talk to that person, I'm happy to  
11 do it.

12 **THE DEFENDANT:** Very good.

13 **MR. STEPP:** Because if I've missed something, I  
14 certainly want to know about it because this is a very  
15 novel theory of law. And if it's out there and I've  
16 missed it -- because I've looked for it. I've done some  
17 research and done what I feel is due diligence trying to  
18 find out if there's a legal basis to enforce plea  
19 agreements in this fashion. And I have not yet found  
20 anything.

21 **THE COURT:** And your understanding of in this  
22 fashion, to make sure we all understand the facts, is that  
23 the Government offered a plea agreement. Mr. Hall  
24 countered that plea agreement through a writing that he  
25 filed with the Court. The Government failed to respond,

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1 so Mr. Hall's position is that by the failure to respond,  
2 that was the acceptance of the agreement.

3                   **THE DEFENDANT:** Excuse me, Judge. The  
4 Government did respond to my counterplea.

5                   **THE COURT:** Responded how so?

6                   **THE DEFENDANT:** In writing and they gave a copy  
7 to Mr. Stepp. And Mr. Stepp informed me that the  
8 Government wanted restitution and wanted some jail time.  
9 And I agreed with that in accordance with the agreement.

10                  **THE COURT:** You agreed with it? I thought your  
11 counteroffer was no jail time, no restitution.

12                  **THE DEFENDANT:** That was the first offer, Judge.

13                  **THE COURT:** Okay.

14                  **THE DEFENDANT:** When they came back and said,  
15 no, we need -- we're going to drop it down from -- when we  
16 agreed that we were going to drop it from eight counts to  
17 one count, I accepted that with no jail time or -- because  
18 restitution had already been fully paid, that there  
19 wouldn't be any restitution. They came back and said, we  
20 would like some restitution and some jail time. I came  
21 back and said, I don't have a problem with that so long as  
22 it's in this basis, time served and et cetera, et cetera.  
23 It's in the agreement if you take the time to read it. So  
24 we had a --

25                  **THE COURT:** You said on the basis of time

1 served. That's what the Government does not agree with.  
2 They believe that the sentencing --

3 And don't let me put words in your mouth, Mr.  
4 Watkins. I'd like to hear from you.

5 But that the sentencing is going to be up to the  
6 Court and that they were not agreeing to time served.

7 **THE DEFENDANT:** Well, I believe that they might  
8 have orally subsequently stated that in writing. My  
9 question is simply where is their record in opposition?  
10 We were in communication via writing. Courts speak  
11 through their writings. So my question is where is the  
12 writing that says that they're in opposition and I don't  
13 have a right to rely on their conduct for --

14 **THE COURT:** But what is the conduct you're  
15 relying on? Because their failure to respond I have ruled  
16 and then they've also orally stated that they have rightly  
17 rejected that offer of time served.

18 **THE DEFENDANT:** Well, if you'll take time to  
19 read the back and forth between the Government and myself,  
20 I think it will be self-explanatory. And if I have it  
21 correct, from your point of view then and Mr. Stepp's and,  
22 obviously, Mr. Watkins', that we're dealing with  
23 traditional situation where assent is going to be express  
24 only, then my question is where is the express consent I  
25 authorized? You know, if we're all equal under the law,

1 then why am I not -- where did I give consent, active  
2 consent or meeting of the minds to allow them to indict  
3 the client or the defendant or myself or arrest or deny  
4 bond or any of these things?

5 And this is, again, if you'll allow a little  
6 latitude and if you'll instruct the --

7 **THE COURT:** What do you mean by allow them the  
8 right to indict you? That's not something that you would  
9 be involved in. That's a separate proceeding in and of  
10 itself through the grand jury.

11 **THE DEFENDANT:** Well, if we're all equal under  
12 the law, we're going to deal with either traditional  
13 contract law or modern contract law. They can't have it  
14 their way on one thing and another way on another, in my  
15 opinion.

16 **THE COURT:** But what is the assent that you say  
17 that they gave you? Like what is the agreement?

18 **THE DEFENDANT:** Well, mutual assent is you --

19 **THE COURT:** I understand what mutual assent is.  
20 What are you saying that they agree with? They agree with  
21 what, time served?

22 **THE DEFENDANT:** Well, I'm asking, where is their  
23 record in opposition? They have no record in opposition  
24 and I asked them about --

25 **THE COURT:** Okay. So you're back to my original

1 premise that their mere failure to respond to your latest  
2 documents indicating how you wish to plead and under what  
3 terms is their assent.

4           **THE DEFENDANT:** Isn't that a response?

5           **THE COURT:** The failure to respond is a  
6 response?

7           **THE DEFENDANT:** Is that not a response?

8           **THE COURT:** But I've ruled that ethically and  
9 professionally they did not have to respond to a person  
10 represented by counsel.

11          **THE DEFENDANT:** No offense saying you can  
12 trespass on my contract by what authority?

13          **THE COURT:** What I'm telling you is that they  
14 could not respond to you directly. They would have to  
15 come through your counsel in that regard. And at the time  
16 you were rejecting counsel. But they made it clear that  
17 they were not accepting this latest offer of yours to  
18 plead to time served. And so that is not an agreement by  
19 them. Now, how I sentence, that's up to me totally. But  
20 they were not agreeing to come before the Court and state  
21 that you all had an agreement to time served.

22          **THE DEFENDANT:** Well, as long as you sentence in  
23 accordance thereto, I'd be okay with it, Judge.

24          **THE COURT:** I'm sure you would, but I haven't  
25 stated how I would sentence.

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1                   **THE DEFENDANT:** Could you maybe assist me by  
2 requesting that the stenographer -- I'll pay the extra  
3 fees to get an expedite of this particular hearing today  
4 so that I can address and study it just a bit and get back  
5 ASAP?

6                   **THE COURT:** Well, there's a process by which you  
7 would request any kind of transcript.

8                   **THE DEFENDANT:** I'll request it. And I'm  
9 putting it on the record and I'm requesting perhaps, if  
10 it's not too much trouble, is it possible I can get it  
11 expedited? I'll pay for it.

12                  **THE COURT:** Well, there's a process for how  
13 that's done.

14                  **THE DEFENDANT:** If you could ask her to do this,  
15 I would appreciate it.

16                  **THE COURT:** I'm sure there's an up front payment  
17 process as well.

18                  **THE DEFENDANT:** If we can now go ahead and  
19 adjourn this based upon the fact that allow some latitude.  
20 Let me get this dealt with. And let me get with Ben and  
21 let's see if we can get this resolved quickly so that  
22 it's -- so that Mr. Watkins is satisfied, that you're  
23 satisfied, Judge, and we can quit wasting valuable court  
24 time --

25                  **THE COURT:** Okay.

1                   **THE DEFENDANT:** -- and I quit making potentially  
2 maybe offending you.

3                   **THE COURT:** Let me here from Mr. Watkins and  
4 Mr. Stepp with respect to if this is going to be resolved,  
5 my suggestion of some type of writing that you all come up  
6 with that he has to sign by a certain time this week. And  
7 either we have a plea or we don't. Because I'm not going  
8 to come back to court and keep convening this kind of  
9 conversation.

10                  **MR. WATKINS:** Judge, I'm afraid he's going to  
11 call -- my guess is his counsel is Jack Smith. Jack  
12 Smith --

13                  **THE COURT:** Is that a lawyer?

14                  **MR. WATKINS:** No, ma'am. He's, frankly, a  
15 co-conspirator. And he's going to explain to him why  
16 you're wrong and I'm wrong and there's really a contract  
17 and we're back where we are.

18                  **THE COURT:** Okay.

19                  **MR. WATKINS:** However, talking about a document  
20 that might help us, I would say so we don't do this again,  
21 because I know Your Honor doesn't and I don't want to be  
22 here again until the first day of trial, however, if  
23 Mr. Hall filled out and properly completed with the aid of  
24 counsel Judge Anderson's plea petition.

25                  **THE COURT:** I thought about that as well.

1                   **MR. WATKINS:** Which is a very thorough form  
2 informing him of his rights. There's a section in there  
3 about promises and plea agreements. He would have to be  
4 able to mark that as there is no plea agreement. There  
5 have been no promises.

6                   If he cannot do that, if he still wishes to rely  
7 on the UCC and this whole battle-of-the-forms idea that  
8 because I did not respond to whatever his last offer of no  
9 jail time, no supervised release, whatever, if he wants to  
10 stick by that, then he won't be able to fill out Judge  
11 Anderson's plea petition.

12                  **THE COURT:** And that's kind of what I had in  
13 mind.

14                  **THE DEFENDANT:** How fast you get me this Judge  
15 Anderson's plea petition?

16                  **THE COURT:** This afternoon. I mean, if that's  
17 not a problem, make sure Mr. Stepp could --

18                  **THE DEFENDANT:** Excuse me. Give it to me and  
19 allow me to get busy so we can get this resolved. This is  
20 what I -- I am responsible.

21                  **THE COURT:** Okay.

22                  Mr. Stepp, your thoughts on that?

23                  **THE DEFENDANT:** And I want to be responsible for  
24 this so...

25                  **THE COURT:** Because you're very familiar with it

1 and I've heard about it.

2 MR. STEPP: But I don't have it with me because  
3 I'm not in Judge Anderson's courtroom. I can get one and  
4 I'll be happy --

5 THE COURT: Sure.

6 MR. STEPP: I want to get it, give him a copy  
7 and take it back to Spartanburg with him and have it with  
8 him when he leaves today.

9 THE COURT: Okay.

10 MR. STEPP: I'd also like if the Government  
11 could provide me with the penalties and elements sheet  
12 that goes with the indictment, because I think they file  
13 those things sometime with the Court.

14 THE COURT: Sure. And I think that that all  
15 should be an attachment to it so we have that right in  
16 front of him.

17 MR. WATKINS: Your Honor, I imagine Ms. Brissey  
18 could print it out downstairs within two or three -- not  
19 to put work on Pam.

20 THE COURT: Sure. We'll get that done before he  
21 leaves.

22 MR. STEPP: But again, I think that this -- I  
23 think what we're -- where we're going to get to is this  
24 plea agreement by mutual assent. As I understand it, just  
25 so I'm clear on this, the Court has ruled the Court does

1 not recognize that as a legally enforceable doctrine.

2           **THE COURT:** Doctrine. And specifically under  
3 the facts and circumstances of this case that there has  
4 been no assent.

5           **MR. STEPP:** So if we get to that point, that's  
6 not going to be -- that's a dead issue as far as the  
7 Court's concerned.

8           **THE COURT:** It is.

9           **MR. STEPP:** Right or wrong, that's the Court's  
10 concern.

11           Do you understand that? She's already ruled on  
12 this mutual assent.

13           **THE DEFENDANT:** Other than the point I've  
14 brought up in this hearing. So just allow me some time  
15 and we'll get back --

16           **MR. WATKINS:** He can certainly appeal that  
17 ruling after the trial, Your Honor. And he's mentioned  
18 interlocutory appeal. I don't think this is an  
19 interlocutory matter and you would not allow such an  
20 appeal if he tried to file one. So if he wants to --

21           **THE COURT:** That's correct. He would go on to a  
22 jury trial.

23           **MR. WATKINS:** If he can -- he's protected his  
24 record if he believes that this mutual assent doctrine,  
25 that he's right on that, or he can go to the Fourth

1 Circuit Court of Appeals after trial were I successful in  
2 getting a conviction. If I don't get a conviction, he  
3 doesn't have anything to appeal and he goes home to Mesa.

4 MR. STEPP: May I follow up on that?

5 THE COURT: Sure.

6 MR. STEPP: Because if a plea is entered, I  
7 would -- that might wipe out any appeal on the issue of a  
8 plea agreement by mutual assent. I'm concerned because  
9 normally a guilty plea --

10 THE DEFENDANT: Obviously, such a thing would  
11 be, Judge. I understand that.

12 THE COURT: Yeah, guilty plea moots that  
13 particular issue.

14 MR. STEPP: And I would imagine a nolo plea  
15 would probably moot it the same way a guilty plea would.

16 THE COURT: Right because it would be no  
17 contest.

18 MR. STEPP: I don't want somebody thinking that,  
19 well, we could go through this thing and I'll still have  
20 that as an appeal issue.

21 THE COURT: I'm glad you brought that up.  
22 That's true. Because once you plead and you've entered  
23 into it, and unless there was something legally wrong with  
24 the plea, then all of these alleged defenses you're  
25 bringing up with respect to the plea, they no longer exist

1 because you've entered the plea and accepted the  
2 responsibility.

3               Okay. So I like the idea that before he leaves  
4 he can just remain with the Marshals and you can all can  
5 appropriately get the Judge Anderson written plea colloquy  
6 document. Attach to it the indictment as well as the  
7 elements of the offense and that should be sufficient.  
8 Because we have placed on the record several times the  
9 factual basis of the plea.

10              You do recall that, Mr. Hall?

11              **THE DEFENDANT:** I accept the factual basis of  
12 the plea under nolo or guilty plea are those. And they're  
13 not going to be contested.

14              **THE COURT:** Okay. All right. So that's all  
15 taken care of so that he would have all of that together.  
16 And only upon that signed document Friday by 12 p.m. will  
17 I then go forward with a plea.

18              **THE DEFENDANT:** That's assuming we don't have  
19 any hiccups or problems.

20              **THE COURT:** But I'm just saying, only upon that  
21 signed document by Friday at 12, then we'll schedule a  
22 plea.

23              **THE DEFENDANT:** If it goes to Monday, it's not  
24 going to affect --

25              **THE COURT:** No, it's got to have a cut off.

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1 Friday at 12. And I'll be here Tuesday or Wednesday to  
2 accept pleas again.

3 THE DEFENDANT: Then instruct the jail to not  
4 deny me access to the telephone at reasonable times.

5 THE COURT: Well, the jail is in control of  
6 their policies, their procedures. So if you can work with  
7 Mr. Stepp in trying to assist you in that regard but --

8 MR. STEPP: I can't get in the middle. The jail  
9 runs their business.

10 THE COURT: Exactly. That's okay. I'm just  
11 saying that to the extent that there is anything that you  
12 normally do for your clients, then you can do it. But I  
13 can't instruct them as to how to run their procedures.  
14 Because every defendant who came in front of me would then  
15 be asking for favors of some sort and I couldn't do that.

16 THE DEFENDANT: I'm seeking no favors. I'm just  
17 requesting that there be equality under the law. If you  
18 lock me up under solitary confinement for no reason and  
19 deny me access to the phone and access to --

20 THE COURT: There has been a reason. You're  
21 indicted by a grand jury. There is a reason you're  
22 confined.

23 MR. STEPP: May ask I ask him something?

24 THE COURT: Yes.

25 MR. STEPP: Are you being denied access to the

1 phone over there now?

2 THE DEFENDANT: Not at the moment, no.

3 MR. STEPP: Do you think you'll be denied access  
4 to a phone such as they only give you one phone call in a  
5 24-hour period?

6 THE DEFENDANT: At this time I have no  
7 expectation to the contrary.

8 THE COURT: Okay. Good. And then your behavior  
9 dictates that as well because the jail will have its  
10 policies and procedures. So as long as you conform to  
11 their policies --

12 THE DEFENDANT: My behavior, so the Court  
13 understands, my behavior is exemplary.

14 THE COURT: Wonderful.

15 THE DEFENDANT: And there's nothing to offend  
16 the jail people.

17 THE COURT: Okay. Well, there's nothing for me  
18 to preempt then.

19 All right. So that's the ruling. If it gets  
20 signed, then I'll be available next Tuesday or Wednesday  
21 for a plea.

22 THE DEFENDANT: And so long as it doesn't  
23 interfere with my substantive rights, I'm okay with all of  
24 this.

25 THE COURT: Okay. And if you don't sign it,

1 then we're going to trial. And the only thing I'll  
2 entertain is if you all have pretrial motions.

3           **THE DEFENDANT:** That would be assuming we didn't  
4 settle it.

5           **MR. WATKINS:** Your Honor, this petition is  
6 typically filed on ECF. And I also would sign it.  
7 Mr. Stepp would sign it. So if Mr. Stepp gets that from  
8 Mr. Hall completely filled out properly and I sign it,  
9 we'll file it on ECF. And that would let the Court know  
10 that there apparently it really is a plea. If it's not  
11 filed, then --

12           **THE COURT:** Then I already know the answer then.

13           **MR. WATKINS:** Yes, ma'am.

14           **THE COURT:** That was my whole point was trying  
15 to come to some solution that didn't invite this  
16 discussion and conversation again.

17           **THE DEFENDANT:** I understand. And one last  
18 thing. I believe we have a solution, you don't. But  
19 we're going to work this through between now and Friday,  
20 Monday and get it dealt with.

21           **THE COURT:** Friday. Yes.

22           **MR. STEPP:** The petition, there's, I don't know,  
23 9 or 10 or 12 pages.

24           **MR. WATKINS:** 15 pages.

25           **MR. STEPP:** Okay. And there's only one little

1 paragraph that's going to have any real impact, I believe,  
2 on where we're at right now. It's about a plea agreement,  
3 is there one? And before we leave the building, while  
4 we're all here together, is I hear the Government --

5 **THE DEFENDANT:** May I answer that question?

6 **MR. WATKINS:** There is no plea agreement.

7 **MR. STEPP:** The Government says there is no plea  
8 agreement.

9 **THE DEFENDANT:** The Government says that there  
10 is none. I say there is. And we'll see what we can do  
11 with working through this.

12 **MR. WATKINS:** And if you put on your plea  
13 petition that there is one, I will not sign it. It will  
14 not be filed and we'll go to trial.

15 **THE COURT:** And it will be rejected as a plea.  
16 So then it will go to trial. So that is the terms because  
17 I feel like I more than given you this opportunity.

18 **THE DEFENDANT:** So long as you're not violating  
19 constitutional safeguards, protections, and et cetera, et  
20 cetera, so...

21 **MR. STEPP:** But he says there is. The  
22 Government says there's not.

23 **THE DEFENDANT:** Man, just leave it alone.

24 **MR. STEPP:** Well, I'm in the middle of this  
25 thing. He says there is. The Government says there's

1 not.

2 THE COURT: And the Court has ruled that there  
3 is not.

4 MR. STEPP: And the Court's ruled there is not.

5 THE COURT: Right.

6 MR. STEPP: So I'm going to give him a copy of  
7 document.

8 THE COURT: The document has to be signed by  
9 Mr. Hall by Friday at 12 and then gotten to you, that's  
10 okay. But yes, we have a signature by Friday at 12.

11 MR. WATKINS: Yes, ma'am.

12 MR. STEPP: I've got the superseding indictment,  
13 which is the one we're going on; is that correct?

14 MR. WATKINS: Yes, sir.

15 MR. STEPP: And the Government's given me  
16 elements sheets for all counts.

17 MR. WATKINS: All counts.

18 MR. STEPP: That and a copy of the petition.

19 THE DEFENDANT: If we plead, we'll plead to the  
20 count that they wanted on the Count 2 and we'll have done  
21 with it.

22 MR. WATKINS: I'll tell you what, Ben. If he'll  
23 if you just put down one of the wire fraud counts, pick  
24 one, and I would accept the petition with that. That was  
25 my original plea offer to him was plead to one of the wire

1       fraud counts. If he fills out a petition, again --

2           **THE DEFENDANT:** I'll take what you said very  
3       serious, Mr. Watkins. Let's leave it alone. Let's  
4       adjourn for the day. I'm settled with it at the moment  
5       and I think we can get where we need to get.

6           **MR. STEPP:** Well, 2, 3 or 4.

7           **MR. WATKINS:** If 2, 3 or 4 is on that petition,  
8       I'll be pleased.

9           **THE COURT:** Okay. All right.

10          **MR. STEPP:** The Marshals said they will keep him  
11       here long enough for me to go get a copy of Judge  
12       Anderson's plea petition. And I will provide that to  
13       them. They'll give it to him and off he goes.

14          **THE COURT:** And you need to understand, Friday  
15       at 12, not Monday. Friday at 12.

16          **THE DEFENDANT:** Let me do my best, Your Honor.  
17       You've been very courteous.

18          **THE COURT:** Okay. Good luck.

19          **MR. STEPP:** And I've given him the indictment  
20       and the element sheets.

21          **THE COURT:** Okay. Thank you.

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\* \* \*

2 I certify that the foregoing is a correct transcript from  
3 the record of proceedings in the above-entitled matter.

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5 s/Karen E. Martin

2/4/2014

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Karen E. Martin, RMR, CRR

Date

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Karen E. Martin, RMR, CRR  
US District Court  
District of South Carolina